

OPEN COURT

**CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH
ALLAHABAD**

(THIS THE 07TH DAY OF JULY 2009)

PRESENT

**HON'BLE MR. JUSTICE A.K. YOG, MEMBER-J
HON'BLE MR D. C. LAKHA MEMBER - A**

**ORIGINAL APPLICATION NO. 1636 OF 2001.
(U/S 19, Administrative Tribunal Act, 1985)**

Anis Ahmed Khan R/o 24 Faujimanjil Momin Compound Isai Tola Jhansi, at
present working as H.C. in the office of Divisional Railway Manager, Jhansi.
.....Applicant

By Advocate: Shri Jamal Ali.
Shri P.K. Gupta
Versus.

1. Union of India through General Manager, Central Railway, Mumbai.
2. General Manager Central Railway, Mumbai
3. Divisional Railway Manager, Central Railway, Jhansi.
4. Senior Divisional Commercial Manager, Jhansi Division, Jhansi.

.....Respondents

By Advocate: Shri D. Awasthi.

ORDER

(Delivered by : Justice A.K. Yog, Member -Judicial)

List has been revised. Heard Shri Adil Jamal, Advocate
representing the applicant. Perused the pleadings and documents on
record.

2. Applicant is an employee of Railways; He initially joined as
Technician (Indian Air Force) and was promoted to the post of
Sargent but obtained voluntary discharge w.e.f. 31.10.1987. He
joined the Indian Railways on 22.4.1988 as Apprentice Diesel
Assistant. He was, though duly qualified and legible for promotion to

7

the post of Shunter, did not get 'regular promotion' and instead granted 'adhoc promotion' on the post of Shunter w.e.f 30.12.1993. Considering his excellent service record, applicant was promoted to the post of 'Driver Goods' on 30.12.1994 but for one reason or the other, he was deprived of annual increment though it was granted to some other employees (para 4.7 of the O.A.). Being aggrieved the applicant filed O.A. No.157/1992, which was disposed of by means of order dated 13.10.1995 (Annexure A-1/Compilation II). Meanwhile the Applicant was medically decategorized on 7.2.1996 and as a consequence of it, he was given alternative appointment as 'Head Clerk' in the office of Divisional Railway Manager, which necessitated fixation of pay etc. and consequently requiring correct calculations for making payment of salary. The Applicant filed representation dated 20.9.2000 (Annexure A-3/Compilation II) which is said to be pending and not decided. The applicant has raised the issue of delay in regularization and denial of promotion- at relevant time (refer to Para 4.14, 4.15 and 4.16 of the O.A.) and representation dated 18.10.2000 (Annexure A-4/Compilation II). He contends that his grievance contained in aforequoted representation has not been decided and hence the abovenoted O.A. claiming following relief (s):_

"8. *Relief sought*

The relief sought by this application is that this Hon'ble Tribunal may graciously be pleased to quash the impugned order dated 3.5.2001 and 29.6.2001 passed by the respondents and further to direct the appoint him on the post of O.S. II and to award all consequential benefits and further to refund the amount already deducted salary from the applicant alongwith interest at the rate 12% per annum to secure the ends of justice otherwise applicant will suffer irreparable loss and injury.

[Signature]

- ii. *to issue any other suitable order or direction which this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case.*
- iii. *to award the costs of the application to the humble applicant throughout".*

3. Having heard learned counsel for the applicant at length and considered the issue/s raised vide Para 4.14, 4.15 and 4.16 of the O.A. have been replied vide para 8 of the counter affidavit, which reads:

"8. That the contents of the paragraph Nos. 4.12, 4.13, 4.14, 4.15, 4.16, 4.17, 4.18, 4.19 and 4.20 of the Original Application are denied. It is relevant to mention again that after medically decategorization of the applicant and his subsequent charge as Head Clerk a clerical mistake occurred in fixation of pay scale. The pay scale as per IREM Rule 1308 (revised) was to be Rs. 950/ to Rs. 1, 500 + 30 % Running Allowance, but erroneously fixed Rs. 1, 350 to Rs. 2,200/- + 30% Running Allowance. The correct fixation is provided in the IREM Rule 1308 (revised) and it is further supplemented vide order dated 8.3.2001 which was sent by the Divisional Office to the Headquarter in reference of the request made by a M.L.A.A photocopy of the letter dated 8.3.2001 showing the correct fixation of salary of the applicant is being filed herewith and marked as Annexure NO. CR-7 to this counter reply. Further more all the representations ever made by the applicant to the Divisional office as well as the Headquarter through various channels have all been replied duly. Rests of the contents stated in paras under reply are denied".

4. There is no averment that the decision over representations filed by the applicant have been considered communicated to the applicant at any point of time.

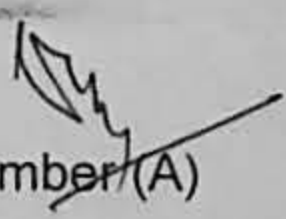
5. The applicant is entitled to limited relief i.e. his representation dated 28.9.2000 may be decided in accordance with law. In so far as the relief regarding quashing of the order dated 26.6.2001 is concerned (Annexure A-2/Compilation I), the same deserves to be ingored.

Am

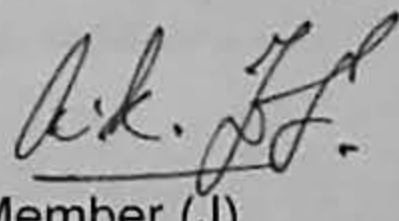
6. In so far as the question of quashing of order dated 3.5.2001 (Annexure A-1/Compilation I) is concerned, we are of the view that the applicant should submit a comprehensive parawise representation before concerned competent Authority and the said Authority should first consider his grievance and pass reasoned/speaking determining liability of the Applicant and thereafter proceed in the matter (including recovery in question).

7. In view of the above, we direct the applicant to file a comprehensive parawise representation alongwith complete copy of the O.As. with all Annexures and a certified copy of this order within 6 weeks from today before respondent No. 2 ie. General Manager Central Railway, Mumbai, who may himself or through another Competent Authority get the said representation decided, and the said authority shall, provided it is filed as stipulated/contemplated above in this order, decide said representation within 4 months from the date of receipt of the Representation (as indicated above) by passing a reasoned and speaking order in accordance with law exercising unfettered discretion. Decision taken shall be communicated to the applicant forthwith.

8. O.A. stands partly allowed to the extent indicated above.
No cost.


Member (A)

Manish/-


Member (J)